

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF DENTISTRY
COMPLAINT COMMITTEE

In the Matter of the Dentistry License
of Curtis Pouliot, D.M.D., Minnesota
License No. 9906

FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION

This Report arises from an Order issued by the undersigned Administrative Law Judge on January 22, 1996, which was entitled Order Compelling Response to Discovery or Response to Proposed Stipulation for Voluntary Surrender.

Michael J. Weber, Assistant Attorney General, 525 Park Street, Suite 500, St. Paul, Minnesota 55103-2106, appeared on behalf of the Complaint Committee of the Minnesota Board of Dentistry.

John R. Kenefick, Briggs & Morgan, 2200 First National Bank Building, St. Paul, Minnesota 55101, appeared on behalf of Dr. Curtis Pouliot, D.M.D.

This Report is a recommendation, not a final decision. The Board of Dentistry will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Patricia H. Glasrud, Executive Director, Minnesota Board of Dentistry, 2700 University Avenue West, St. Paul, Minnesota 55114, telephone (612) 642-0579, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

Should disciplinary action be taken against the dentistry license of Dr. Curtis Pouliot because of the conduct alleged in the Notice of and Order for Hearing issued by the Board of Dentistry on November 29, 1995.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On November 29, 1995, Patricia H. Glasrud, Executive Director of the Minnesota Board of Dentistry, executed a Notice of and Order for Hearing in this matter, setting a prehearing conference for December 8. The Notice is a 26-page document, detailing numerous allegations concerning Respondent's practice of dentistry. A copy of the Notice was served on Respondent's attorney, John R. Kenefick, on November 30. Attorney Kenefick promptly filed a Notice of Appearance on behalf of Dr. Pouliot.

2. On December 8, 1995, a prehearing conference was held by telephone. Participating were the undersigned Administrative Law Judge, Mr. Kenefick, and Mr. Weber. At the close of the prehearing conference, the Administrative Law Judge ordered that Respondent would have until December 12 to determine whether or not he wanted to proceed with the hearing, and if he did desire to proceed, then he had until December 18 to respond to Requests for Admissions which had been served on December 5.

3. On December 13, Attorney Kenefick informed the Administrative Law Judge that Dr. Pouliot had decided not to continue with the administrative hearing process.

4. On December 26, Assistant Attorney General Weber informed the Administrative Law Judge that the parties were still negotiating over the terms of a stipulation for dismissal of the hearing, and that they would continue to attempt to negotiate a satisfactory stipulation.

5. On January 16, 1996, a prehearing conference call was held involving the undersigned Administrative Law Judge, Mr. Kenefick, and Mr. Weber. Mr. Kenefick stated that a proposed stipulation had been sent to Dr. Pouliot around December 20, but that Dr. Pouliot had not returned it and would not return Mr. Kenefick's telephone calls. At the end of the prehearing conference, the Administrative Law Judge announced that he would be issuing an Order to force Dr. Pouliot to take some action in this matter.

6. On January 22, 1996, the Administrative Law Judge issued his Order Compelling Response to Discovery or Response to Proposed Stipulation for Voluntary Surrender. That Order directed Respondent to take one or more of a number of enumerated actions no later than February 7. Respondent was given a choice of responding to the Requests for Admission, responding to the Proposed Stipulation and Order for Voluntary Surrender, or consenting to the entry of a default judgment. The Order went on to provide as follows:

If Respondent fails to take any of the three actions outlined above, the Administrative Law Judge may find him in default, pursuant to Minn. Rule pt. 1400.6000, and the allegations of the Notice of and Order for Hearing may be taken as true or deemed proved without further evidence. For purposes of that rule, this Order shall be deemed to be an Interlocutory Order.

7. That Order was served on Mr. Kenefick and Mr. Weber on January 22.

8. On February 1, 1996, Mr. Kenefick filed a letter indicating that he had discussed the matter with Dr. Pouliot, and Dr. Pouliot had decided to do nothing. As Mr. Kenefick stated:

Dr. Pouliot told me he will not sign any stipulation, will not respond to any requests for admissions or file any form of written statement either consenting to the entry of a default judgment or contesting the entry of a default judgment. In short, he will not take any further action in regard to this matter and either the Minnesota Board of Dentistry or the Office of Administrative Hearings may take whatever action is necessary to terminate the case. Under these circumstances, which obviously are very unusual, it appears that paragraph 2 [relating to default] of your Order of January 22, 1996 is applicable.

9. Pursuant to Minn. Rule 1400.6000 (1995), the allegations contained in the Notice of and Order for Hearing are hereby taken as true and incorporated herein by reference in their entirety.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. That the Complaint Committee of the Board of Dentistry and the Administrative Law Judge have authority to consider the issues raised by the Notice of and Order for Hearing and take the action proposed, pursuant to Minn. Stat. §§ 214.10, 214.103, 150A.01 to 150A.21 and 14.50 (1994).

2. That the Complaint Committee gave proper notice of the hearing in this matter to the Respondent and has fulfilled all relevant substantive and procedural requirements of statute and rule.

3. That the Respondent is in default within the meaning of Minn. Rule pt. 1400.6000.

4. That Minn. Rule pt. 1400.6000 provides that in the event of a default, the allegations of and the issues set out in the Notice of and Order for Hearing may be taken as true and deemed proved without further evidence.

5. That Respondent has violated Minn. Stat. § 150A.08, subds. 1(5), (6), (11), and (13), as well as § 150A.11, subd. 11, as well as Minn. Rule pt. 3100.6200A, B, and J, as well as parts 3100.6350, 3100.8400, 3100.8500, 3100.8700, and 3100.3600, subps. 3 and 5.

6. That disciplinary action is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Board take disciplinary action against the dentistry license of Curtis Pouliot, D.M.D., License No. 9906.

Dated this 20th day of February, 1996.

ALLAN W. KLEIN
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail.